

**Maine Revised Statutes**  
**Title 18-A: PROBATE CODE**  
**Article :**

**§5-311. WHO MAY BE GUARDIAN; PRIORITIES**

(a). Any competent person or a suitable institution may be appointed guardian of an incapacitated person, except as provided in subsection (c).

[ 1979, c. 540, §1 (NEW) .]

(b). Subject to a determination by the court of the best interests of the incapacitated person, persons who are not disqualified have priority for appointment as guardian in the following order:

(1). The person or institution nominated in writing by the incapacitated person; [1979, c. 540, §1 (NEW) .]

(2). The spouse of the incapacitated person; [1979, c. 540, §1 (NEW) .]

(2-A). The domestic partner of the incapacitated person; [2003, c. 672, §11 (NEW) .]

(3). An adult child of the incapacitated person; [1979, c. 540, §1 (NEW) .]

(3-A). A person who served as guardian, permanency guardian or legal custodian of the incapacitated person when the incapacitated person was a child, if the person was actively serving in that capacity immediately before the incapacitated person's 18th birthday; [2007, c. 284, §1 (NEW) .]

(4). A parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent; [1979, c. 540, §1 (NEW) .]

(5). Any relative of the incapacitated person with whom the incapacitated person resided for more than 6 months prior to the filing of the petition; or [2007, c. 284, §2 (AMD) .]

(6). A person nominated by the person who is caring for the incapacitated person or paying benefits to the incapacitated person. [2007, c. 284, §3 (AMD) .]

[ 2007, c. 284, §§1-3 (AMD) .]

(c). An owner, proprietor, administrator, employee or other person with a substantial financial interest in a facility or institution licensed under Title 22, sections 1817 and 7801 may not act as guardian of an incapacitated person who is a resident, as defined in Title 22, section 7852, subsection 13, unless the person requesting to be appointed guardian is one of the following:

(1). The spouse of the incapacitated person; [1995, c. 51, §1 (NEW) .]

(1-A). The domestic partner of the incapacitated person; [2003, c. 672, §12 (NEW) .]

(2). An adult child of the incapacitated person; [1995, c. 51, §1 (NEW) .]

(2-A). A person who served as guardian, permanency guardian or legal custodian of the incapacitated person when the incapacitated person was a child, if the person was actively serving in that capacity immediately before the incapacitated person's 18th birthday; [2007, c. 284, §4 (NEW) .]

(3). A parent of the incapacitated person or a person nominated by the will of a deceased parent; or [1995, c. 51, §1 (NEW) .]

(4). A relative of the incapacitated person with whom the incapacitated person has resided for more than 6 months prior to the filing of the petition for appointment. [1995, c. 51, §1 (NEW).]

[ 2007, c. 284, §4 (AMD) .]

#### SECTION HISTORY

1979, c. 540, §1 (NEW). 1985, c. 770, §1 (AMD). 1995, c. 51, §1 (AMD).  
2001, c. 596, §B2 (AMD). 2001, c. 596, §B25 (AFF). 2003, c. 672,  
§§11,12 (AMD). 2007, c. 284, §§1-4 (AMD).

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